

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3930 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRAVIN OIL MILLS & ANR.

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR AD MITHANI for Petitioners

MR HL JANI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, a registered partnership firm, through its partner, filed this Special Civil Application before this Court challenging thereunder the judgment and order of the Deputy Secretary, Civil Supplies Department, dated 31st January 1984, in the matter arising out of the proceedings initiated under the Essential Commodities Act, 1955 (hereinafter referred to as the Act 1955) and

Essential Commodities (Stock Declaration & Licence Control) Order, 1981 (hereinafter referred to as the Order 1981).

2. The facts of the case are that on 8.3.83, the Supply Inspectors of the District Supply Office raided the petitioner-Oil Mill and found discrepancies which have been enumerated by the petitioner in para 3.1 of the Special Civil Application. The concerned officer has seized the stock of 9092 Kgs. of Groundnut. On 14th March 1983, a show cause notice was issued by the said officer to the petitioner calling upon to show cause why the seized stock should not be confiscated under the provisions of the Act 1955. The petitioner filed a reply to the said notice on 6.4.83. The petitioner also produced evidence. After considering the evidence produced by the petitioner and hearing them, the respondent No.2 ordered for confiscation of stock of 2180 Kgs. of Groundnut and the remaining stock of 6992 Kgs. of Groundnut was ordered to be released to the petitioner. This order has been passed admittedly u/s.6-A of the Act 1955. Dissatisfied with the aforesaid order of respondent No.2, the petitioner preferred an appeal before the State Government and the same has been dismissed by the appellate authority under its order dated 3.1.84. Hence this Special Civil Application before this Court.

3. The learned counsel for the petitioner contended that both the authorities have committed serious illegality in holding that the petitioner has contravened the provisions of the Act 1955 and the Order 1981. On 7.3.83, 10 tins of Groundnut oil were sold and necessary entry was made in the register and bill was also issued. The counsel for petitioner further contended that the substance and not the form should have been considered in the present case. The petitioner has sent fortnightly statement handwritten on a paper instead of in prescribed printed form. There is also evidence produced by the petitioner on record that form 'G' was regularly sent to the authorities concerned. The learned counsel for the petitioner further contended that the excess stock of Groundnut which was found in the premises of petitioner oil mill was on approval and affidavit of the original owner of goods was also produced in support of it. The discrepancies found, the learned counsel for the petitioner contended, are of formal nature which do not justify for taking such a deterrent action.

4. On the other hand, the learned counsel for the respondent contended that the authorities have found that

the petitioner has committed breach of clause 23(2), 17(3)(2) of the Order 1981 and as such, the authorities have rightly made the impugned order. It is a case where the petitioner has not complied with the provisions of the Order 1981 and on its premises, excess stock of Groundnut was found and it has further been found that 10 tins of Groundnut oil were sold without there being any entry of gate pass for the same. The petitioner has not submitted fortnightly return of the stock. It is a case where the petitioner has tried to create evidence subsequently. Both the authorities have decided the matter against the petitioner and the orders passed by those authorities are not perverse and as such, this Court may not interfere in the matter. The learned counsel for the respondent lastly contended that no further appeal or revision has been provided against the order of the appellate authority in the matter of confiscation of stock ordered under the provisions of the Act 1955 and the intention of legislature behind that is to give finality to the orders made by the authorities under those provisions.

5. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties.

6. The Apex Court, in the case of Laxmikant Revachand Bhojwani v. Pratapsing Mohansingh Pardeshi, reported in (1995) 6 SCC 576, held in connection with the powers of this Court under Article 227 of the Constitution of India, as under:

"The High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in the present case. The Act is a special legislation governing landlord-tenant relationship and disputes. The legislature has, in its wisdom, not provided second appeal or revision to the High Court. The object is to give finality to the decision of the appellate authority. The High Court under Article 227 cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes."

7. In the present case also against the order of the appellate authority made under the Act 1955, no further appeal or revision has been provided by legislature to this Court. Both the authorities have concurrently

decided the matter against the petitioner and after due notice and opportunity of hearing. The appellate authority has considered all the points raised by the petitioner in the memo of appeal and detailed and considerate order has been passed. The Groundnut oil has been sold by the petitioner and no gate pass has been issued in respect of the same. The petitioner has not disputed this fact and explanation has been given that due to burden of work the gate pass was not issued. This explanation has not been accepted by both the authorities and rightly so. It is an explanation of the nature which can be raised very conveniently in such matters and what exactly it has been done in the present case. The appellate authority has found as a fact that on the date 7.3.83, there was no heavy burden of work. No other income debit or sale of Groundnut oil has been done on the said date. That was the factual position and in view of the same, it is difficult to believe and it has rightly been not believed by both the authorities that there was such heavy burden of work that the gate pass of 10 tins could not be issued. It is apparently a manufactured defence. So far as the excess stock of Groundnut found on the premises of the petitioner is concerned, it is suffice to say that both the authorities concurrently decided against the petitioner. The inspecting officer, upon comparing the stock indicated in the stock register of the petitioner and actual stock available, found that the actual stock to be more. The Manager of the petitioner has given out explanation that Shri Mohanbhai Motibhai had sent 14 bags containing Groundnut and in support of the said fact, octroi receipts of Damnagar Panchayat has been produced. Difference of 120 Kgs. stock was found to be there. The appellate authority has concluded that firstly the Manager of the petitioner, at the time of inspection had given explanation that about the said excess stock of Groundnut noticed, he does not know anything as to from whom the said stock has been received. After a lapse of one hour thereafter the aforesaid explanation has been taken that 14 bags containing Groundnut have been sent by Shri Mohanbhai Motibhai. That explanation which has come after one hour of inspection, has rightly not been believed by both the authorities. It is not a technical breach of conditions of licence as well as the relevant orders, but it is substantial matter and in view of this fact, both the authorities have not committed any error in passing the order of confiscation of Groundnut. The orders made by both the authorities are legal and justified and does not call for any interference by this Court.

8. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief granted by this Court stands vacated. No order as to costs.

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(sunil)